



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

establish a *prima facie* agency for this particular action between this attorney and the company, and thus constitute a general appearance for the company. A general appearance cures all defects in service where the court would have had jurisdiction if the service had been perfect. *Redmond v. Peterson* (1894) 102 Calif. 595, 36 Pac. 923; *Baker v. Union Stock Yards Nat. Bank* (1902) 63 Neb. 801, 89 N. W. 269.

PLEADING—WRONGFUL DEATH—STATUTORY PERIOD—CONDITION PRECEDENT OR LIMITATION PERIOD.—Suit was brought November 28, 1910, under a wrongful death statute requiring that action thereon must be brought within one year after the death. The declaration alleged that the injury resulting in death occurred June 27, 1909, but did not allege the date of the death, nor that the action was commenced within one year after the death. *Held*, that the declaration did not state a cause of action. *Hartray v. Chicago Railways* (1919, Ill.) 124 N. E. 849.

One line of cases holds that a statutory requirement of this sort is a limitation period to be set up in the defendant's pleading. *Sharrow v. Inland Lines, Ltd.* (1915) 214 N. Y. 101, 108 N. E. 217; *Chiles v. Drake* (1859, Ky.) 2 Met. 146, 74 Amer. Dec. 406. But most courts treat such a provision as a limitation or condition attached to the right. *De Martino v. Sieman* (1916) 90 Conn. 527, 97 Atl. 765; *Korb v. Bridgeport Gas Light Co.* (1917) 91 Conn. 395, 99 Atl. 1048; *The Harrisburg* (1886) 119 U. S. 199, 7 Sup. Ct. 140; *Boston and Maine R. R. v. Hurd* (1901, C. C. A. 1st) 108 Fed. 116, 47 C. C. A. 615; *Hamilton v. Hannibal and St. Joseph R. R.* (1888) 39 Kan. 56, 18 Pac. 57. These cases reason since there is no action at common law for wrongful death, then where a statute creates a right of action, a limitation in the statute is inherently a part of the right of action. In this respect the limitation differs from the ordinary statute of limitations, which operates to bar a preëxisting right. See Tiffany, *Death by Wrongful Act* (2d ed. 1913) sec. 121. According to this view, in order to avail himself of the right, a plaintiff must affirmatively allege that his action was commenced within the period provided. *Louisville and Nashville R. R. v. Chamblee* (1910) 171 Ala. 188, 54 So. 681. When the plaintiff fails to do this, his declaration is demurrable. *Lapsley, Admtr. v. Public Service Corporation of New Jersey* (1908, Sup. Ct.) 75 N. J. L. 266, 68 Atl. 1113. The principal case follows the majority rule, and is sound in result. For the effect of a foreign statute of limitations, see (1918) 27 YALE LAW JOURNAL, 1078.

PROCEDURE—SERVICE BY PUBLICATION—IDEM SONANS.—The plaintiff sued to foreclose his mortgage on the defendant's property, service in the suit being by publication. The defendant contended that the court failed to obtain jurisdiction because of defective notice. The published notice named the defendant as "Asa W. Winegar," whereas his name was "Aseph W. Winegar." There was evidence that he had frequently been called "Asa" and that his name so appeared in the previous directory. *Held*, that there was not sufficient variation in the sound of the two names to make the service void. *Bennett v. Winegar* (1919, Neb.) 174 N. W. 512.

The courts are practically unanimous in applying the doctrine of *idem sonans* when called upon to determine the validity of default judgments rendered upon personal service. *Bloomfield R. R. v. Burress* (1882) 82 Ind. 83; *Walsh v. Kirkpatrick* (1866) 30 Calif. 202. But where service was made by publication, there is considerable conflict of opinion as to whether or not the doctrine should be applied. The more recent authorities tend to support the principal case. *Cf. Puckett v. Hetzer* (1910) 82 Kan. 726, 109 Pac. 285; *of. Davison v. Bankers' Life Ass'n* (1912) 166 Mo. App. 625, 150 S. W. 713. *Contra*,